

AMENDED IN SENATE MAY 28, 2013

AMENDED IN ASSEMBLY MAY 6, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 683**

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### Introduced by Assembly Member Mullin

February 21, 2013

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An act to amend, repeal, and add Section 53069.4 of the Government Code, relating to local government.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 683, as amended, Mullin. Local government: fines and penalties: assessments.

Existing law authorizes the legislative body of a local agency to make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty, as specified.

This bill would, until January 1, 2020, authorize a city, county, ~~or city and county~~, *or special district* to, after notice and public hearing, specially assess any fines or penalties not paid after demand by the city, county, ~~or city and county~~, *or special district* against real property owned by the person owing those fines or penalties, where the fines or penalties are related to ordinance violations on the real property upon which the fines or penalties would be specially assessed, and the ordinance violations constitute a threat to public health and safety. This bill would require a city, county, ~~or city and county~~, *or special district* to comply with certain notice requirements. The bill would provide that the assessment may be collected at the same time and in the same manner as ordinary county taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of

delinquency as are provided for ordinary county taxes, and would authorize the city, county,~~or city and county, or special district~~ to record a lien against the property. This bill would authorize a local agency to appoint a hearing officer to hear and decide issues regarding ordinance violations and the imposition of administrative fines and penalties.

This bill would, until January 1, 2020, provide that the powers given to the legislative body of a city, county,~~or city and county, or special district~~ under these provisions are in addition to any other powers of a city, county,~~or city and county, or special district~~ under its charter or any other legal authority.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 53069.4 of the Government Code is  
2     amended to read:  
3     53069.4. (a) (1) The legislative body of a local agency, as the  
4     term “local agency” is defined in Section 54951, may by ordinance  
5     make any violation of any ordinance enacted by the local agency  
6     subject to an administrative fine or penalty. The local agency shall  
7     set forth by ordinance the administrative procedures that shall  
8     govern the imposition, enforcement, collection, and administrative  
9     review by the local agency of those administrative fines or  
10    penalties. Where the violation would otherwise be an infraction,  
11    the administrative fine or penalty shall not exceed the maximum  
12    fine or penalty amounts for infractions set forth in subdivision (b)  
13    of Section 25132 and subdivision (b) of Section 36900. The powers  
14    given to the legislative body of a city, county,~~or city and county,~~  
15    *or special district* under this section are in addition to any other  
16    powers of a city, county,~~or city and county, or special district~~  
17    under its charter or any other legal authority.  
18    (2) (A) The administrative procedures set forth by ordinance  
19    adopted by the local agency pursuant to paragraph (1) shall provide  
20    for a reasonable period of time, as specified in the ordinance, for  
21    a person responsible for a continuing violation to correct or  
22    otherwise remedy the violation prior to the imposition of  
23    administrative fines or penalties, when the violation pertains to

1 building, plumbing, electrical, or other similar structural or zoning  
2 issues, that do not create an immediate danger to health or safety.

3 (B) Pursuant to Chapter 14 (commencing with Section 27720)  
4 of Part 3 of Division 1 of Title 3, or other applicable law, the  
5 administrative procedures adopted by ordinance pursuant to  
6 paragraph (1) may authorize the appointment of one or more  
7 hearing officers to hear and decide issues regarding ordinance  
8 violations and the imposition of administrative fines or penalties.

9 (C) A city, county, ~~or city and county,~~ *or special district* may,  
10 by ordinance, combine the administrative procedures adopted  
11 pursuant to paragraph (1) with nuisance abatement procedures  
12 adopted by ordinance pursuant to Sections 25845, 38773.1, and  
13 38773.5.

14 (3) (A) If the owner of real property fails to pay fines or  
15 penalties upon demand by a city, county, ~~or city and county,~~ *or*  
16 *special district*, the city, county, ~~or city and county,~~ *or special*  
17 *district* may, after notice and public hearing, order the fines or  
18 penalties to be specially assessed against the parcel if the fines or  
19 penalties are related to ordinance violations on the real property  
20 upon which the fines or penalties would be specially assessed and  
21 the ordinance violations constitute a threat to public health and  
22 safety. The city, county, ~~or city and county,~~ *or special district*  
23 shall mail or deliver notice of the hearing at least 15 days prior to  
24 the hearing to the owner of the parcel. For purposes of notice,  
25 ownership of the parcel shall be determined by the latest assessment  
26 roll, the records of the county assessor, or the records of the tax  
27 collector, whichever is most recent. The assessment may be  
28 collected at the same time and in the same manner as ordinary  
29 county taxes are collected, and shall be subject to the same  
30 penalties and the same procedure and sale in case of delinquency  
31 as are provided for ordinary county taxes. All laws applicable to  
32 the levy, collection, and enforcement of county taxes are applicable  
33 to the special assessment, except that the special assessment is not  
34 subject to the priority for special assessment liens provided for in  
35 Article 13 (commencing with Section 53930) of Chapter 4 of Part  
36 1 of Division 2. The assessment does not constitute a lien on real  
37 property until a notice of lien is recorded pursuant to this section.

38 (B) If any administrative fine or penalty remains unpaid for 10  
39 days following the conclusion of the public hearing described in  
40 subparagraph (A), the tax collector may send to the owner of the

1 parcel, by certified mail, a notice of enforcement that states that  
2 if payment has not been received within 45 days following the  
3 date of the notice, a lien will be recorded. If, after the 45-day period  
4 following the notice, the fine or penalty has not been paid, the city,  
5 county, ~~or city and county~~, or *special district* may specially assess  
6 the cost of the administrative fines or penalties against the parcel  
7 and cause a notice of lien to be recorded to perfect the lien. The  
8 notice of lien shall, at a minimum, identify the assessor's parcel  
9 number and record owner, set forth the last known address of the  
10 record owner, set forth the date upon which assessment was ordered  
11 by the city, county, ~~or city and county~~, or *special district*, and the  
12 amount of the lien.

13 (C) Recordation of a notice of lien pursuant to subparagraph  
14 (B) has the same effect as recordation of an abstract of a money  
15 judgment recorded pursuant to Article 2 (commencing with Section  
16 697.310) of Chapter 2 of Division 2 of Title 9 of Part 2 of the Code  
17 of Civil Procedure. The lien created against the parcel has the same  
18 force, effect, and priority as a judgment lien on real property. Upon  
19 order of the city, county, ~~or city and county~~, or *special district*, or  
20 any officer authorized by the city, county, or city and county to  
21 act on its behalf, a lien created under this section may be released  
22 or subordinated in the same manner as a judgment lien on real  
23 property may be released or subordinated.

24 (b) (1) Notwithstanding the provisions of Section 1094.5 or  
25 1094.6 of the Code of Civil Procedure, within 20 days after service  
26 of the final administrative order or decision of the local agency is  
27 made pursuant to an ordinance enacted in accordance with this  
28 section regarding the imposition, enforcement, or collection of the  
29 administrative fines or penalties, a person contesting that final  
30 administrative order or decision may seek review by filing an  
31 appeal to be heard by the superior court, where the same shall be  
32 heard de novo, except that the contents of the local agency's file  
33 in the case shall be received in evidence. A proceeding under this  
34 subdivision is a limited civil case. A copy of the document or  
35 instrument of the local agency providing notice of the violation  
36 and imposition of the administrative fine or penalty shall be  
37 admitted into evidence as prima facie evidence of the facts stated  
38 therein. A copy of the notice of appeal shall be served in person  
39 or by first-class mail upon the local agency by the contestant.

1 (2) The fee for filing the notice of appeal shall be as specified  
2 in Section 70615. The court shall request that the local agency's  
3 file on the case be forwarded to the court, to be received within  
4 15 days of the request. The court shall retain the fee specified in  
5 Section 70615 regardless of the outcome of the appeal. If the court  
6 finds in favor of the contestant, the amount of the fee shall be  
7 reimbursed to the contestant by the local agency. Any deposit of  
8 the fine or penalty shall be refunded by the local agency in  
9 accordance with the judgment of the court.

10 (3) The conduct of the appeal under this section is a subordinate  
11 judicial duty that may be performed by traffic trial commissioners  
12 and other subordinate judicial officials at the direction of the  
13 presiding judge of the court.

14 (c) If no notice of appeal of the local agency's final  
15 administrative order or decision is filed within the period set forth  
16 in this section, the order or decision shall be deemed confirmed.

17 (d) If the fine or penalty has not been deposited and the decision  
18 of the court is against the contestant, the local agency may proceed  
19 to collect the penalty pursuant to the procedures set forth in its  
20 ordinance.

21 (e) This section shall remain in effect only until January 1, 2020,  
22 and as of that date is repealed, unless a later enacted statute, that  
23 is enacted before January 1, 2020, deletes or extends that date.

24 SEC. 2. Section 53069.4 is added to the Government Code, to  
25 read:

26 53069.4. (a) (1) The legislative body of a local agency, as the  
27 term "local agency" is defined in Section 54951, may by ordinance  
28 make any violation of any ordinance enacted by the local agency  
29 subject to an administrative fine or penalty. The local agency shall  
30 set forth by ordinance the administrative procedures that shall  
31 govern the imposition, enforcement, collection, and administrative  
32 review by the local agency of those administrative fines or  
33 penalties. Where the violation would otherwise be an infraction,  
34 the administrative fine or penalty shall not exceed the maximum  
35 fine or penalty amounts for infractions set forth in subdivision (b)  
36 of Section 25132 and subdivision (b) of Section 36900.

37 (2) The administrative procedures set forth by ordinance adopted  
38 by the local agency pursuant to paragraph (1) shall provide for a  
39 reasonable period of time, as specified in the ordinance, for a  
40 person responsible for a continuing violation to correct or otherwise

1 remedy the violation prior to the imposition of administrative fines  
2 or penalties, when the violation pertains to building, plumbing,  
3 electrical, or other similar structural or zoning issues, that do not  
4 create an immediate danger to health or safety.

5 (b) (1) Notwithstanding the provisions of Section 1094.5 or  
6 1094.6 of the Code of Civil Procedure, within 20 days after service  
7 of the final administrative order or decision of the local agency is  
8 made pursuant to an ordinance enacted in accordance with this  
9 section regarding the imposition, enforcement or collection of the  
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20 or by first-class mail upon the local agency by the contestant.

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26 finds in favor of the contestant, the amount of the fee shall be  
27 reimbursed to the contestant by the local agency. Any deposit of  
28 the fine or penalty shall be refunded by the local agency in  
29 accordance with the judgment of the court.

30 (3) The conduct of the appeal under this section is a subordinate  
31 judicial duty that may be performed by traffic trial commissioners  
32 and other subordinate judicial officials at the direction of the  
33 presiding judge of the court.

34 (c) If no notice of appeal of the local agency's final  
35 administrative order or decision is filed within the period set forth  
36 in this section, the order or decision shall be deemed confirmed.

37 (d) If the fine or penalty has not been deposited and the decision  
38 of the court is against the contestant, the local agency may proceed  
39 to collect the penalty pursuant to the procedures set forth in its  
40 ordinance.

- 1     (e) This section shall become operative on January 1, 2020.

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